

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

VILMA MOLINA,  
*Plaintiff,*

v.

ETECH GLOBAL SERVICES LLC,  
ETECH, INC., NACOGDOCHES CENTER  
LLC, and MATTHEW ROCCO,  
*Defendants.*

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CIVIL ACTION NO. 9:21-CV-290-MJT-CLS

**MEMORANDUM ORDER ADOPTING THE REPORT AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE [Dkt. 183]**

Pursuant to 28 U.S.C. § 636 and the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges, the District Court referred this proceeding to the Honorable Christine L. Stetson to conduct all pretrial proceedings, to enter findings of fact and recommend disposition on case-dispositive matters, and to determine non-dispositive matters. *See* 28 U.S.C. § 636(b)(1); E.D. TEX. LOC. R. CV-72.

Plaintiff, proceeding *pro se*, filed suit on November 24, 2021, alleging Defendants discriminated and retaliated against her in connection with her employment in violation of Title VII and §1981 [Dkts. 1, 33]. After the close of discovery, Defendants filed a motion for summary judgment on May 16, 2024 [Dkt. 168]. In their motion, they asserted that Plaintiff could not establish a genuine dispute of material fact as to any of her claims [*Id.*]. Plaintiff did not file a response to the motion for summary judgment addressing the merits of the motion. Instead, Plaintiff filed multiple requests to extend discovery [Dkts. 169, 176] and a motion complaining about the date on which Plaintiff was served with the motion for summary judgment [Dkt. 174]. Each request to reopen or extend discovery was denied by the magistrate judge as Plaintiff had not established good cause to continue or re-open discovery [Dkt. 171, 182]. The magistrate judge

addressed Plaintiff's complaint about the date she was served the motion for summary judgment and issued an order determining the response date to be June 10, 2024 [Dkt. 177]. Despite the clear direction from the magistrate judge as to when a response was due, Plaintiff, as noted above did not file a response.

After waiting more than two weeks after a response to the motion for summary judgment was due, Judge Stetson entered a Report and Recommendation [Dkt. 183] advising the Court to grant the Defendant's motion for summary judgment. Judge Stetson's Report and Recommendation was not based solely on the fact that Plaintiff failed to respond to the motion, but instead, included an analysis of the evidence submitted by the Plaintiff considering the elements of Plaintiff's causes of action for discrimination and retaliation.

The clerk's office sent the Report and Recommendation to the Plaintiff by certified and regular mail on July 1, 2024. On July 12, 2024, Plaintiff emailed the court and advised that she saw on Pacer that a Report and Recommendation had been issued, but that she had not yet received a copy of it. The Clerk's office noted in the docket that on that same day, July 12, 2024, Plaintiff came to the Lufkin Clerk's office and requested a copy of the Report and Recommendation, and one was provided to her. Considering Plaintiff's email, Judge Stetson set a telephone status conference for July 18, 2024. At the status conference, Judge Stetson asked Plaintiff to advise by what date she would like to submit any objections she might have to the Report and Recommendation. Plaintiff selected July 31, 2024. Judge Stetson reminded Plaintiff that she was free to hand-deliver her objections to the clerk's office, or she could mail them so long as they were post-marked by the due date. Judge Stetson issued a written order on July 18, 2024 confirming that Plaintiff had until July 31, 2024 to file in person or by mail, objections to the Report and Recommendation [Dkt. 188].

On July 31, 2024, Plaintiff emailed the Court advising that she would not be filing her objections on July 31, 2024, but instead on August 1, 2024 because in her view, a person who files electronically has until midnight of the filing day, but since she files in person and the clerk's office closes at 5 pm she should have until August 1, 2024. On August 1, 2024, Plaintiff again emailed the court explaining that she had car trouble on her way to the Lufkin courthouse. [Dkt. 190, 191]. No objections were filed on August 1, 2024. On Friday August 2, 2024 at 4:34 pm Plaintiff emailed the Court and claimed a migraine prohibited her from coming to the courthouse and that she would file "her motion" on Monday, August 5, 2024.

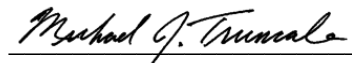
The record is replete with Plaintiff's excuses for her failure to meet deadlines and/or participate in the discovery process throughout the history of this case. Excuses to date include things such as: shower ceiling tile fell, rain on the road, oversleeping, loss of wallet, traffic, food poisoning, car trouble and a migraine. The Court and the magistrate judge have tolerated all of Plaintiff's excuses and have gone above and beyond to accommodate Plaintiff with multiple opportunities to comply with deadlines. The Court's patience has reached its end. Plaintiff received the Report and Recommendation 24 days ago, yet she still has not objected to any of the findings and the time to do so has passed.

After careful review, the Court finds that the findings of fact and conclusions of law of the United States Magistrate Judge are correct. Accordingly, the Report and Recommendation of the United States Magistrate Judge [Dkt. 183] is ADOPTED. Defendants' Motion for Summary

Judgment [Dkt. 168] is granted and Plaintiff's claims are DISMISSED with prejudice. A final judgment will be entered by the Court.

IT IS SO ORDERED.

**SIGNED** this 5th day of August, 2024.

A handwritten signature in black ink, reading "Michael J. Truncala", is written over a horizontal line.

Michael J. Truncala  
United States District Judge